

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

	)	<b>Chapter 11</b>
	)	
<b>IN RE GARDEN RIDGE CORPORATION, <i>et al.</i>,</b>	)	<b>Case No. 04-10324 (KJC)</b>
	)	<b>Jointly Administered</b>
<b>Debtors.</b>	)	
	)	<b>Related Docket No: 2077</b>

**DESIGNATION OF RECORD AND STATEMENT OF ISSUES ON APPEAL**

Appellant Daniel Ferguson ("Ferguson") by and through his undersigned counsel,  
Buchanan Ingersoll PC, hereby files his *Designation of Record and Statement of Issues on  
Appeal*.

Mr. Ferguson designates the following items for inclusion in the record on appeal:

1. Motion Of Daniel Ferguson For Relief From The Automatic Stay Under Section 362(d)(1) Of The Bankruptcy Code To The Extent Necessary to Set Off Mutual Debts. (Filed 04/13/2005) [D.I. 1518].
2. Reorganized Debtors' Objection To Motion Of Daniel Ferguson For Relief From The Automatic Stay Under § 362(D)(1) Of The Bankruptcy Code To The Extent Necessary To Set Off Mutual Debts. (Filed 06/10/2005) [D.I. 1725].
3. Reply of Daniel Ferguson In Support Of His Motion For Relief From The Automatic Stay Under § 362(d)(1) Of The Bankruptcy Code To The Extent Necessary To Set Off Mutual Debts. (Filed 6/22/2005) [D.I. 1753].
4. Motion To Continue Cash Management System. (Filed 2/2/2004) [D.I. 11].
5. Declaration Of Donald Martin In Support Of First Day Applications and Motions (Filed 2/2/2004) [D.I. 3].
6. Debtors' Monthly Operating Report For February 2004. (Filed 3/23/2004) [D.I. 317].
7. Garden Ridge, L.P. Schedules. (Filed 3/3/2004) [D.I. 217].
8. Garden Ridge, L.P. Statement Of Financial Affairs. (Filed 3/3/2004) [D.I. 218].
9. Garden Ridge Management, Inc. Schedules. (Filed 3/3/2004) [D.I. 209]

10. Garden Ridge Management, Inc. Statement Of Financial Affairs (Filed 3/3/2004) [D.I. 210].
11. Debtor's First Amended Joint Plan of Reorganization (Corrected) Under Chapter 11 Of The Bankruptcy Code. (Filed 3/29/2005) [D.I. 1467].
12. First Amended And Corrected Disclosure Statement. (Filed 3/29/2005) [D.I. 1465].
13. Memorandum In Support Of Plan Confirmation. (Filed 4/26/2005) [D.I. 1579].
14. Declaration Of Donald Martin In Support Of Plan Confirmation. (Filed 4/27/2005) [D.I. 1585].
15. Order Confirming Debtors' First Amended Joint Plan Of Reorganization (Filed 4/28/2005) [D.I. 1598].
16. Motion of Daniel Ferguson To Set Hearing Date For Motion Of Daniel Ferguson For Relief from Stay. (Filed 08/18/2005) [D.I.1817].
17. Emergency Motion To Adjourn Hearing To Consider Motion Of Daniel Ferguson For Relief From The Automatic Stay Under § 362(D)(1) Of The Bankruptcy Code To The Extent Necessary To Set Off Mutual Debts: Docket No. 1518. (Filed 9/21/2005) [D.I. 1912].
18. Response To And Objection To Debtors' Emergency Motion To Adjourn Hearing To Consider Motion Of Daniel Ferguson For Relief From The Automatic Stay To The Extent Necessary To Set Off Mutual Debts. (Filed: 9/21/2005) [D.I. 1913].
19. Order Approving Emergency Motion To Adjourn Hearing To Consider Motion Of Daniel Ferguson For Relief From The Automatic Stay Under § 362(D)(1) Of The Bankruptcy Code To The Extent Necessary To Set Off Mutual Debts: Docket No. 1518. (Filed: 09/23/2005) [D.I. 1917].
20. Notice Of Agenda Of Matters Scheduled For Hearing On November 16, 2005 at 9:30 a.m. (Filed 11/04/2005) [D.I. 1968].
21. Updated Notice Of Agenda Of Matters Scheduled For Hearing On November 16, 2005 at 9:30 a.m. (Filed: 11/7/2005) [D.I. 1972].
22. Reorganized Debtors' Post-Hearing Memorandum In Support Of Their Objection To Motion Of Daniel Ferguson For Relief From The Automatic Stay Under § 362(d)(1) Of The Bankruptcy Code To The Extent Necessary To Set Off Mutual Debts. (Filed: 11/30/2005) [D.I. 1996].
23. Movant Daniel Ferguson's Post-Hearing Brief. (Filed: 11/30/2005) [D.I. 1997].

24. Appendix To Movant Daniel Ferguson's Post-Hearing Brief. (Filed: 11/30/2005) [D.I. 1997].
25. Certificate Of Completion Of Briefing And Reservation Of Rights With Respect To Docket Nos. 1518, 1725, 1753, 1992, 1997 And 1998. (Filed: 12/5/2005) [D.I. 2007].
26. Memorandum Of Opinion And Order. (Signed: 2/10/2006; Entered: 2/14/2006) [D.I. 2064].
27. Judgment. (Signed: 2/10/2006; Entered: 2/14/2006) [D.I. 2066].
28. Notice Of Appeal (Entered: 2/20/2006) [D.I. 2077].

### **STATEMENT OF ISSUES ON APPEAL**

Mr. Ferguson presents the following issues on appeal:

1. The Court erred as a matter of law in not permitting the parties to put on evidence at the hearing on the Motion and requiring all proposed evidence to be attached to the parties' respective post-hearing briefs.
2. The Court erred as a matter of law in finding the "single business enterprise" doctrine inapplicable, such that no mutuality existed for setoff purposes.
3. The Court erred as a matter of law in holding that the Debtor Garden Ridge, L.P. was not the 'alter ego' of Garden Ridge Management, Inc., or other debtors, such that no mutuality existed for setoff purposes.
4. The Court erred in holding that the substantive consolidation of the Debtors was not sufficient to create the requisite "mutuality" for a setoff.
5. The Court erred in failing to permit the set off of pre-petition debts between the Debtors and Mr. Ferguson.

6. The Court erred as a matter of law in finding that Garden Ridge, L.P. was not the employer of Mr. Ferguson and the entity responsible for the payment of his severance benefits.

Dated: March 1, 2006  
Wilmington, DE

**BUCHANAN INGERSOLL PC**

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